IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 3450 of 2007
Date of Decision: 3.9.2009

Mukesh .....Appellant

Versus

Balbir Singh and others .....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Shri Ashwani Talwar, Advocate, for the appellant.

Shri V.K. Jindal, Advocate, for the respondents.

HEMANT GUPTA, J. (Oral).

Defendant No.2 is in second appeal aggrieved against the judgment and decree passed by the first Appellate Court, whereby the registered release deed executed by Suba in favour of the said defendant on 25.1.2002 was found to be not executed and surrounded by the suspicious circumstances and consequently, the suit was decreed.

One Matta Ram had four sons, namely, Suba, Bharpur, Balbir and Prithi. Suba died issueless on 9.2.2002. The defendant-appellant is son of Bharpur. Balbir and Jaipal son of Prithi filed the present suit for declaration challenging the release deed dated 25.1.2002 propounded by the defendant-appellant on 31.1.2002. The suit was dismissed by the learned trial Court but the learned first Appellate Court decreed the suit. Aggrieved,

the defendant has come up in the present second appeal.

The learned first Appellate Court has found that the original release deed has not been produced in evidence and that even the attesting witnesses have not been examined to prove the execution of the release deed by Suba in favour of the defendant-appellant. Even the scribe of the release deed has not been produced.

In view of the above, the finding recorded by the learned first Appelalte Court that the release deed is not proved to be executed, cannot be said to be suffering from any patent illegality or material irregularity, which may give rise to any substantial question of law in the present second appeal.

Hence, the present appeal is dismissed.

(HEMANT GUPTA)
JUDGE

03-09-2009
ds